



**DECLARATION OF JEANETTE ELIZABETH BUTLER
IN SUPPORT OF 37 C.F.R. §1.47(a) PETITION**

I, Jeanette Elizabeth Butler, do hereby declare as follows:

1. I am Manager, Finance & Administration of The Lions Eye Institute of Western Australia Incorporated (hereinafter "the Institute") located at 2 Verdun Street, Nedlands, Western Australia 6009, Australia.
2. Dr Paul Van Saarloos has been an employee of the Institute since June 1987. However Dr Van Saarloos has not attended the Institute since November 2000. The circumstances of Dr Van Saarloos' departure are the subject of legal proceedings between him and the Institute that commenced prior to 5 June 2001. Dr Van Saarloos is represented by the following legal counsel: Corrs Chambers Westgarth of Perth, Western Australia.
3. Dr Van Saarloos' last known mailing address is:
14 Dunster Street, Karrinyup, Western Australia 6018, Australia
4. On 5 June 2001 on my instructions, the Institute's general legal counsel, Clayton Utz, sent a letter to Dr Van Saarloos' legal counsel, requesting that Dr Van Saarloos execute the application papers. Attached as Exhibit 1 is a copy of the letter. Accompanying the letter was a complete set of application papers for US patent application 09/831971 (hereinafter "the '971 application") as noted in the letter.
5. Subsequent to the date of Exhibit 1, discussions were held with Dr Van Saarloos through counsel and, upon information and belief, pursuant thereto Dr Van Saarloos had agreed to execute the Declaration for the '971 application. I requested the Institute's patent attorneys to prepare fresh documents for execution with minor changes. Appended hereto as Exhibit 2 is a

copy of a letter to me dated July 11, 2001 from the Institute's patent attorneys forwarding the new documents, including a Combined Declaration and Power of Attorney and an Assignment for the US '971 application.

6. On my instructions, the Institute's general legal counsel forwarded the replacement Combined Declaration and Power of Attorney and the Assignment to Dr Van Saarloos' legal counsel under cover of a letter dated July 16, 2001, but to date he has not returned the executed documents.

7. Since the communication of 16 July 2001, mediation sessions have been held with a view to resolving the aforementioned legal proceedings, but without success. On at least one occasion, I recall the matter of the outstanding forms for the '971 application and other applications being discussed but the representative of Dr Van Saarloos stated that secondary matters such as this would be left until after resolution of the primary dispute.

8. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believe to be true; and further that these statements were made with the knowledge that wilful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such wilful false statements may jeopardize the validity of the application or any patent issued thereon.

Dated: 19 Dec 2001

By: 
Jeanette Elizabeth Butler